

January 25, 2005

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Re: v. Advance R-IV School District

FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION

The Panel met in hearing on January 10, 2005 to conduct a Due Process Hearing. The Panel received evidence from each of the parties who were each represented by counsel. Set out are the Panel's findings of fact, conclusions of law, and decision issued to the parties on the date noted above. The parties agreed on the record to the final decision date to be no later than January 28, 2005.

1. The issue before the Panel was whether the student and his parents were provided with adequate notice of the IEP meeting and a Manifestation Determination Review meeting.
2. The student was charged with criminal felony drug charges and arrested under warrant. He was also charged with separate municipal drug violations at the time of his arrest.
3. An IEP and Manifestation Determination Review meeting were conducted by the School District on October 15, 2004 during which the parents participated in the IEP portion of the meeting and left before the Manifestation Determination Review portion was conducted.
4. The School District entered an exhibit that showed that notice of the IEP meeting had been properly served on the parents with the IEP purpose of the meeting noted in the typed checked box.
5. The School District's exhibit also showed that the box identifying that a Manifestation Determination was checked by handwriting. Upon questioning it

was determined that the handwritten check mark had been added after notice was served on the parents.

6. The notice received by the parents did not show that a Manifestation Determination Review meeting was set for the same time as the IEP meeting.

7. The School District offered testimony that a telephonic discussion took place between a school administrator and the parents wherein the administrator discussed the scheduled meeting in general non-technical terms, but did not specifically identify that the meeting was one to conduct a Manifestation Determination Review as well as the IEP activity.

8. The parents testified that they participated in the telephone conversation with the school administrator, but that they did not understand that the IEP meeting would also include a Manifestation Determination Review.

9. Based on the above noted facts, the Panel does not believe that the School District provided proper notice to the parents concerning the Manifestation Determination Review.

Therefore, it is the decision of the Due Process Panel that the School District must conduct a new Manifestation Determination Review after providing proper notice to the parents.

Ivan L. Schraeder
Panel Chairperson

Mr. Rand Hodgson
Panel Member

Supt. Nicholas J. Thiele
Panel Member

Cc: Ms. Pam Williams, Director, Special Education Compliance, DESE